

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
CONNECT AMERICA FUND	)	WC Docket No. 10-90
)	
A NATIONAL BROADBAND PLAN FOR OUR FUTURE	)	GN Docket No. 09-51
)	
ESTABLISHING JUST AND REASONABLE RATES FOR LOCAL EXCHANGE CARRIERS	)	WC Docket No. 07-135
)	
HIGH-COST UNIVERSAL SERVICE SUPPORT	)	WC Docket No. 05-337
)	
DEVELOPING A UNIFIED INTERCARRIER COMPENSATION REGIME	)	CC Docket No. 01-92
)	
FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE	)	CC Docket No. 96-45
)	
LIFELINE AND LINK-UP	)	WC Docket No. 03-109
)	
UNIVERSAL SERVICE REFORM – MOBILITY FUND	)	WT Docket No. 10-208
)	

**REPLY COMMENTS OF THE
INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE**

**Genevieve Morelli
Micah M. Caldwell
ITTA
1101 Vermont Ave., NW
Suite 501
Washington, D.C. 20005**

February 17, 2012

Table of Contents

INTRODUCTION AND SUMMARY	2
I. THE CAF PHASE II COMPETITIVE BIDDING PROCESS SHOULD BE COMPETITIVELY NEUTRAL	3
A. ETC Designation Issues	3
1. ETC Designation Should Be Required To Participate In The Competitive Bidding Process	3
2. A Default Grant of ETC Status Would Undermine Important Policy Objectives	5
3. Providers That Offer Nationwide Service Should Not Get Federal ETC Status	6
B. The Commission Should Not Relax Minimum Performance Obligations For Auction Winners Or Reward Mobility as a Factor In Evaluating Bids	7
C. The Commission Should Not Accelerate Broadband Build-Out Obligations Applicable To Auction Winners	9
D. Unclaimed ILEC Support Should Not Be Directed To The Mobility Fund	10
II. THE COMMISSION SHOULD TAKE STEPS TO ENSURE THAT EXPIRATION OF THE SUPPORT TERM DOES NOT UNDERMINE ITS BROADBAND DEPLOYMENT GOALS	11
III. THE COMMISSION MUST ADOPT AN ACCURATE AND RELIABLE METHODOLOGY FOR DETERMINING COMPETITIVE OVERLAP BEFORE WITHDRAWING SUPPORT FROM INCUMBENT CARRIERS BASED ON THE PRESENCE OF UNSUBSIDIZED COMPETITION	13
CONCLUSION.....	15

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
CONNECT AMERICA FUND	)	WC Docket No. 10-90
)	
A NATIONAL BROADBAND PLAN FOR OUR FUTURE	)	GN Docket No. 09-51
)	
ESTABLISHING JUST AND REASONABLE RATES FOR LOCAL EXCHANGE CARRIERS	)	WC Docket No. 07-135
)	
HIGH-COST UNIVERSAL SERVICE SUPPORT	)	WC Docket No. 05-337
)	
DEVELOPING A UNIFIED INTERCARRIER COMPENSATION REGIME	)	CC Docket No. 01-92
)	
FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE	)	CC Docket No. 96-45
)	
LIFELINE AND LINK-UP	)	WC Docket No. 03-109
)	
UNIVERSAL SERVICE REFORM – MOBILITY FUND	)	WT Docket No. 10-208
)	

**REPLY COMMENTS OF THE
INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE**

The Independent Telephone & Telecommunications Alliance (“ITTA”)¹ hereby submits its Reply Comments in response to Sections XVII.A-K of the November 18, 2011 *Further Notice of Proposed Rulemaking* (“FNPRM”) issued by the Federal Communications Commission (“FCC” or “Commission”) in the above-captioned proceedings.²

¹ ITTA’s membership includes CenturyLink, Cincinnati Bell, Comporium Communications, Consolidated Communications, FairPoint Communications, Hargray Communications, HickoryTech Communications, SureWest Communications, and TDS Telecom.

² *In the Matter of Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund,*

Commenters raised a variety of issues concerning the Commission’s implementation of the Universal Service Fund (“USF”) reforms covered in the *FNPRM*, including numerous matters ITTA addressed in its January 18 comments. Those issues included the public interest obligations and accountability mechanisms imposed on Connect America Fund (“CAF”) recipients, the implementation of the reasonable comparability standard, the determination of CAF funding eligibility in price cap areas based on the presence of an unsubsidized competitor, and IP-to-IP interconnection obligations.³ Rather than reiterate those arguments here, ITTA instead focuses its Reply Comments on new claims raised by other commenters relating to the Commission’s implementation of the competitive bidding process for distribution of CAF Phase II funding and the phase-out of support for rate-of-return carriers in areas where they face unsubsidized competition.

INTRODUCTION AND SUMMARY

As explained below, it is critical that the CAF Phase II competitive bidding process be implemented in a competitively neutral manner, such that the same rights and obligations are applicable to all participants. The Commission should reject any proposal to make modifications to the Eligible Telecommunications Carrier (“ETC”) designation process, broadband performance standards, build-out obligations, and budget applicable in the reverse auction context that would give a competitive advantage to one class of providers over another.

It also is imperative that the Commission modify its proposed approach to determining competitive overlap before it withdraws CAF support from incumbent rate-of-return carriers based on the presence of unsubsidized competition. Currently, the Commission intends to rely

WC Docket Nos. 10-90, 07-135, 05-337, 03-109; CC Docket Nos. 01-92, 96-45; GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (“*Order*” or “*FNPRM*,” as appropriate).

³ Comments of the Independent Telephone & Telecommunications Alliance, WC Docket Nos. 10-90, *et al.* (filed Jan. 18, 2012) (“ITTA Comments”).

on the National Broadband Map and Tele Atlas Wire Center Boundaries data for this determination, both of which have proven to be inaccurate and unreliable for measuring actual voice and broadband competition. Instead, the Commission should adopt a methodology and process that uses detailed, precise, dependable, and verifiable data so that support is only withdrawn from the incumbent based on actual, not potential or hypothetical, competition.

Finally, the Commission must ensure that any elimination or reduction of CAF funding at the end of the initial support term does not interfere with its broadband deployment goals. Certain parties suggest that there should be no right to renewal at the end of the support term and that the Commission should re-auction support only where there are a sufficient number of unserved locations to justify the distribution of additional support. However, the loss of ongoing support could chill private investment in network deployment in supported areas and jeopardize the ability of CAF recipients to continue to operate, maintain, and upgrade those networks after the support term ends, putting consumers' access to reliable voice and broadband service in remote and high-cost areas at risk. The Commission should take care to avoid such a result.

I. THE CAF PHASE II COMPETITIVE BIDDING PROCESS SHOULD BE COMPETITIVELY NEUTRAL

A. ETC Designation Issues

1. ETC Designation Should Be Required To Participate In The Competitive Bidding Process

The American Cable Association (“ACA”) argues that parties should not have to be qualified as ETCs in the areas in which they intend to seek CAF support prior to participating in the CAF Phase II competitive bidding process.⁴ Rather, the FCC should require bidders to

⁴ Comments of the American Cable Association, WC Docket Nos. 10-90, *et al.* (filed Jan. 18, 2012) (“ACA Comments”), at 18-25.

obtain ETC status pursuant to a new federal, uniform ETC process after winning the auction.⁵

While ITTA does not necessarily disagree with the concept of a nationally uniform ETC process applicable to all providers for federal universal service support eligibility purposes, the Commission expressly determined not to preempt state authority in this area.⁶ It would not be competitively neutral for current ETCs to continue to have to abide by ETC requirements and obligations that vary from state to state while new CAF participants could enjoy the benefits of a federally-administered process with a single set of rules and requirements.

ITTA also disagrees with ACA's proposal that ETC designation be required after, not before, participation in the competitive bidding process. ITTA submits that the ETC designation process serves as a useful and necessary gating function to ensure that potential bidders are financially qualified to receive CAF support and will use such funding responsibly and consistent with their public interest obligations. As ITTA previously pointed out, this requirement applies to incumbents and should apply to new CAF participants as well.⁷

Although the requirements for obtaining ETC designation vary depending on the jurisdiction, state and federal authorities have determined that the criteria for ETC status create a rigorous process that ensures the long-term sustainability of the universal service fund.⁸ These extensive requirements provide assurance of a potential CAF recipient's financial qualifications and "that it has committed sufficient financial resources to complying with the public interest obligations required under the Commission's rules."⁹

⁵ *Id.* at 18-25.

⁶ *See Order* at ¶ 82.

⁷ ITTA Comments at 16.

⁸ *See In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 05-46, Report and Order, ¶ 2 (rel. Mar. 17, 2005).

⁹ *FNPRM* at ¶ 1105.

ACA claims that adoption of its proposal is necessary to “attract the greatest number of bidders” to the auction.¹⁰ However, it is vital that the FCC and the public know at the outset of the competitive bidding process that a bidder has demonstrated a commitment to the process and is in financial position to meet the voice and broadband deployment obligations imposed by the Commission. This is especially true with respect to new CAF participants that may have no (or a limited) track record of successfully providing voice or broadband service in hard-to-serve areas.

ACA also argues that “requiring bidders to submit ETC applications and obtain such authorizations before bidding could result in substantial delays or cause providers to miss out on the auction.”¹¹ However, the FCC has yet to adopt rules for the CAF Phase II competitive bidding process and it is not expected to do so for many months.¹² Even then, the competitive bidding process will initially apply only in areas where the incumbent declines a 5-year term for CAF support pursuant to a state-level commitment.¹³ Thus, assuming that a number of ILECs exercise a statewide election, many areas will not be eligible for competitive bidding until 2018, leaving providers that are interested in participating in the auction process with ample time to obtain ETC status for the areas in which they intend to seek CAF support.

2. A Default Grant of ETC Status Would Undermine Important Policy Objectives

The National Cable & Telecommunications Association (“NCTA”) urges the Commission to adopt a streamlined ETC designation process for purposes of the CAF Phase II competitive bidding process, which would entail a default grant of the request if it is not acted on

¹⁰ ACA Comments at 28.

¹¹ *Id.* at 20.

¹² *See Order* at ¶ 25 (indicating that the FCC “expect[s] that the model and competitive bidding mechanism will be adopted by December 2012, and disbursements will ramp up in 2013 and continue through 2017”).

¹³ *See id.* at ¶¶ 24-25.

within 30 days.¹⁴ While ITTA understands the desire to “ensure that ETC designation requests are addressed in a timely manner,” a default grant rule would completely undermine the objectives of the ETC designation process.¹⁵

As discussed above, requiring parties to be qualified as ETCs in the areas in which they intend to seek CAF support prior to participating in the competitive bidding process serves important policy goals by ensuring that auction participants are financially stable and will use CAF funding consistent with their public interest obligations. If default grants are permitted, this goal would be put at risk. Thus, the Commission should ensure that any steps it takes to prevent unnecessary delay in the processing of ETC applications does not undermine the important need for a determination that the entity is qualified to receive any CAF support for which it may become eligible through participation in the competitive bidding process.

3. Providers That Offer Nationwide Service Should Not Get Federal ETC Status

The Satellite Broadband Providers (“SBPs”) also request that the Commission modify the ETC designation process applicable to the CAF Phase II competitive bidding process by designating satellite broadband providers as ETCs on a nationwide basis.¹⁶ Among other things, the SBPs argue that the “time-consuming” ETC designation process “would delay significantly the ability of these providers to extend broadband service to ‘unserved’ areas quickly,” and that such providers “would be unduly constrained by the need to satisfy the requirements and comply with the regulations of up to 50 (or more) different jurisdictions.”¹⁷

¹⁴ Comments of the National Cable & Telecommunications Association, WC Docket Nos. 10-90, *et al.* (filed Jan. 18, 2012), at 13.

¹⁵ *Id.* at 13.

¹⁶ Comments of the Satellite Broadband Providers, WC Docket Nos. 10-90, *et al.* (filed Jan. 18, 2012), at 10-12.

¹⁷ *Id.* at 10.

As discussed above, the competitive bidding process will initially only apply in areas where the ILEC declines a five-year term of support pursuant to a state-level broadband commitment. Areas where the ILEC exercises a statewide election will not be open to competitive bidding until much later. Thus, claims that satellite broadband providers will not have time to obtain ETC status or will be required to obtain such status in every state are specious, at best. More importantly, the SBPs' proposal turns the concept of a competitively neutral auction process, where all participants are subject to the same rules and requirements, on its head. Thus, the Commission should decline the SBPs' request to designate satellite broadband providers as ETCs on the federal level.

B. The Commission Should Not Relax Minimum Performance Obligations For Auction Winners Or Reward Mobility as a Factor In Evaluating Bids

CTIA – The Wireless Association (“CTIA”) and United States Cellular Corporation (“US Cellular”) request that the Commission relax the minimum performance standards required for participants in the CAF Phase II competitive bidding process and reward mobility as a factor in evaluating bids.¹⁸ According to US Cellular, the Commission should permit “individual service providers to propose different prices at which they would be willing to offer services at different performance levels. The Commission then would select the winning bids based on both the prices and the performance scores.”¹⁹

While this approach may generate more bids, it is not competitively neutral and would diminish the transparency of the competitive bidding process. It is important that all recipients of CAF Phase II support be required to meet the same minimum requirements for broadband

¹⁸ Comments of CTIA – The Wireless Association, WC Docket Nos. 10-90, *et al.* (filed Jan. 18, 2012), at 13-14; Comments of United States Cellular Corporation, WC Docket Nos. 10-90, *et al.* (filed Jan. 18, 2012) (“US Cellular Comments”), at 42-43.

¹⁹ US Cellular Comments at 43.

performance and that all participants are aware of those requirements before participating in the competitive bidding process.

Allowing auction participants to compete for funding based on different combinations of performance dimensions, where “the Commission would score such ‘quality’ differences in evaluating bids,” would complicate the process tremendously and would make it difficult for potential bidders to ascertain the elements necessary for a successful bid.²⁰ It is imperative that competitive bidding be based on objective criteria that are apparent at the outset and not on subjective factors the Commission applies post-auction when it is evaluating bids. In addition, the approach proposed by CTIA and US Cellular could have a negative impact on consumers to the extent that the Commission makes “tradeoffs between offering a higher quality to fewer customers and accepting a lower quality for some customers.”²¹

Mobile broadband technology already receives a funding preference and specialized treatment through a separate pool of support – the Mobility Fund – which has its own set of rules and requirements based on the Commission’s recognition that fixed and mobile broadband are complementary to each other, not substitutes.²² To the extent that any modifications are needed to ensure robust bidding by mobile broadband providers under the reformed universal service support mechanisms, the Commission should make these changes with respect to its implementation of the Mobility Fund, not the competitive bidding process for CAF Phase II support.

²⁰ *FNPRM* at ¶ 1204.

²¹ *Id.*

²² For instance, the Commission implicitly acknowledged that fixed and mobile services are not interchangeable when it defined “unsubsidized competitor” as a facilities-based provider of residential fixed voice and broadband services, and excluded mobile service providers as part of that definition. *Order* at ¶103.

Moreover, relaxing the performance requirements for the competitive bidding process for all bidders might act as a disincentive for incumbent local exchange carriers (“ILECs”) to accept a state-level broadband commitment at a higher uniform standard. When it comes to areas within an incumbent’s footprint that are particularly challenging to serve at higher performance standards, it would undoubtedly be attractive for an incumbent to opt to participate in the competitive bidding process where less stringent requirements would apply.

C. The Commission Should Not Accelerate Broadband Build-Out Obligations Applicable To Auction Winners

ACA urges the Commission to accelerate the period in which CAF participants that receive support through the competitive bidding process must meet their broadband build-out obligations.²³ Specifically, ACA proposes that auction winners should be required to provide service at speeds of 4/1 Mbps to 95 percent of locations within two years and speeds of 6/1.5 Mbps to 95 percent of locations within five years. ACA bases its request “on the use of census tracts as the service area for support recipients and the experiences of ACA members in deploying infrastructure.”²⁴

The Commission, on the other hand, has proposed that recipients of support through the competitive bidding process meet the same build-out obligations as ILECs that elect a five-year term for CAF Phase II support pursuant to a statewide commitment.²⁵ As set forth in the *Order*, ILECs that make a state-level commitment must offer at least 4/1 Mbps broadband service to at least 85 percent of supported locations by the end of the third year and to all supported locations

²³ ACA Comments at ii, 4-5, 13, 28-30, 33.

²⁴ *Id.* at 28.

²⁵ *FNPRM* at ¶ 1203.

(and at least 6/1.5 Mbps to a number of supported locations to be specified) by the end of the fifth year.²⁶

The timeline set forth by the Commission should not be altered. The Commission recognized that “carriers typically... extend service on a project-by-project basis,” and therefore set the percentage milestones to account for the unique circumstances that may affect network deployment in a particular service area and ensure that providers have adequate time in which to meet their service commitments.²⁷ Changing the performance obligations for all auction winners based on the experiences of one class of providers (ACA members) would not be practical or competitively neutral and would undercut the Commission’s careful consideration of the issue. As ITTA pointed out in its comments, all CAF Phase II recipients should be subject to the same build-out obligations, regardless of whether they receive model-derived or auction-based support.²⁸ Thus, the Commission should reject ACA’s request to accelerate the build-out timeline applicable to CAF recipients that receive support through the competitive bidding process.

D. Unclaimed ILEC Support Should Not Be Directed To The Mobility Fund

RCA – The Competitive Carriers Association (“RCA”) requests that the Commission identify ways to redirect CAF Phase II support to the Mobility Fund.²⁹ Under RCA’s proposal, “where a price cap carrier declines to exercise its statewide right of first refusal with respect to Phase II CAF support, the relevant amount that would have been distributed to that price cap carrier [should be] transferred to the Mobility Fund... to give wireless ETCs the opportunity to

²⁶ *Order* at ¶ 160.

²⁷ *Id.* at n. 259.

²⁸ ITTA Comments at ii, 15-16.

²⁹ Comments of RCA – The Competitive Carriers Association, WC Docket Nos. 10-90, *et al.* (filed Jan. 18, 2012), at 3-7.

build out broadband networks in states where the price cap carrier declines to use available CAF support for that purpose.”³⁰

According to RCA, wireless ETCs “have already been approved and have permits, established vendor relationships, and service capabilities in the relevant areas” and thus “are ready, willing, and able to meet the challenge of deploying broadband networks and services to rural consumers.”³¹ If that is the case, however, then wireless ETCs are arguably well positioned to participate in the CAF Phase II competitive bidding process that is open to all providers.

Indeed, there is no valid justification for redirecting unclaimed ILEC funds for the exclusive use of wireless broadband providers through the Mobility Fund when the Commission has adopted a CAF Phase II competitive bidding process that allows participation by multiple technologies, including mobile broadband. RCA has “repeatedly emphasized” in this proceeding that “the Commission should pursue consumer-oriented, competitively and technologically neutral policies in distributing high-cost USF support, rather than favoring particular technologies or classes of providers and thus undermining competition.”³² It is precisely for those reasons that the Commission should reject the proposal RCA advances now.³³

II. THE COMMISSION SHOULD TAKE STEPS TO ENSURE THAT EXPIRATION OF THE SUPPORT TERM DOES NOT UNDERMINE ITS BROADBAND DEPLOYMENT GOALS

ACA argues that “[a]uction winners should not receive any preferences or expectancy for renewals after the five year term of support expires.”³⁴ Rather, “at that time, the FCC should

³⁰ *Id.* at 3, 6.

³¹ *Id.* at 6.

³² *Id.* at 2.

³³ The same rationale would apply to arguments that the Commission should repurpose any savings realized from reducing the current rate of return by investing it in the Mobility Fund. *See* US Cellular Comments at viii, 53.

³⁴ ACA Comments at 13.

reevaluate the need for support and method of support on a *de novo* basis” and if the Commission finds “that there are a sufficient number of locations in a census tract without service” it could “re-auction the support on that basis.”³⁵

ITTA cautions the Commission against taking any steps that would put broadband availability and investment in hard-to-serve areas at risk. Auction winners that receive CAF Phase II support will be required to meet significant build-out and service commitments to comply with their public interest obligations. In many cases, the availability of ongoing support may be necessary not only for the continued operation, maintenance, and upgrade of those networks beyond the initial five-year support term, but also for the initial and ongoing private investment required for the deployment of those networks. As US Cellular observes:

Firms deciding whether to provide investment capital... typically place considerable weight on the issue of whether the carriers are likely to be eligible to receive universal service support on a continuing basis, as long as they continue to meet eligibility and performance requirements. The reverse auction mechanism replaces this paradigm with a scenario in which any carrier – regardless of its eligibility for funding and successful performance of public interest obligations – is at risk of losing its access to funding.³⁶

Absent the “ongoing influx” of private investment capital, network deployment in high-cost areas “may be curtailed or abandoned.”³⁷ The Commission should steer clear of situations where auction winners are left with stranded investment and the inability to provide reliable voice and broadband service to rural and hard-to-serve consumers because of the uncertainties created by the competitive bidding process.

³⁵ *Id.*

³⁶ US Cellular Comments at 36.

³⁷ *Id.*

III. THE COMMISSION MUST ADOPT AN ACCURATE AND RELIABLE METHODOLOGY FOR DETERMINING COMPETITIVE OVERLAP BEFORE WITHDRAWING SUPPORT FROM INCUMBENT CARRIERS BASED ON THE PRESENCE OF UNSUBSIDIZED COMPETITION

In the *Order*, the Commission determined to eliminate support received by incumbent rate-of-return carriers in study areas where there is 100 percent overlap by one or more unsubsidized competitors that offer voice and broadband service meeting the public interest obligations imposed by the Commission.³⁸ The *FNPRM* sought comment on a number of issues relating to this decision, including the methodology and processes the Commission should employ in making such determinations as well as the extension of such policies to rate-of-return areas where there is less than 100 percent competitive overlap.³⁹

ITTA agrees with other commenters that the Commission should focus on developing an accurate and effective methodology for analyzing where there is a 100 percent competitive overlap before taking any further action with respect to the reduction of support in rate-of-return areas where there is less than 100 percent overlap.⁴⁰ As NECA, *et al.* and others have pointed out, the data on which the Commission proposes to rely – Tele Atlas Wire Center Boundaries and National Broadband Map (“NBM”) data – is insufficient “to provide a direct or reliable measure of actual voice and broadband competition.”⁴¹ These sources suffer from a number of flaws, including data that is “not accurate in every instance,” which creates an “upward bias in

³⁸ *Order* at ¶ 281.

³⁹ *FNPRM* at ¶ 1061.

⁴⁰ See e.g., Comments of the National Exchange Carrier Association, Inc., National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies, and Western Telecommunications Alliance, WC Docket Nos. 10-90, *et al.* (filed Jan. 18, 2012), at 86.

⁴¹ *Id.* at 76. See also Comments of SureWest Communications, WC Docket Nos. 10-90, *et al.* (filed Jan. 18, 2012) (“SureWest Comments”), at 4-5; Petition for Reconsideration of the Independent Telephone & Telecommunications Alliance, WC Docket Nos. 10-90, *et al.* (filed Dec. 29, 2011).

the results;”⁴² data that is based on “optimistic reporting”⁴³ by providers that “paint their coverage areas with a broad brush;”⁴⁴ data that combines both business and residential service offerings; data that is reported based on theoretical “up to” speeds that may not actually meet the Commission’s performance standards; and data that assumes that a census block is served even if only “one location in that block has service or *potentially* could have service.”⁴⁵

It is crucial for the Commission’s analysis to be based on actual, not hypothetical, service before it even considers phasing out support for incumbent carriers with carrier-of-last-resort obligations in high-cost areas. These providers have made substantial investments to deploy voice and broadband-capable networks through reliance on USF support and withdrawing that support puts their ability to provide continued, affordable, high quality service to consumers in remote and hard-to-reach areas at risk. Thus, the Commission should look to alternative sources for making its competitive overlap determination, relying on an easily administered process or data collection mechanism that ensures access to detailed, accurate, reliable, and verifiable data.⁴⁶

In addition, the Commission should make clear for purposes of the competitive overlap determination that: (i) a provider that does not rely on its own facilities, but rather leases the

⁴² Letter from Jennifer Prime, Legal Counsel, Wireline Competition Bureau, to Marlene H. Dortch, FCC, WC Docket Nos. 10-90, *et al.* (filed Oct. 19, 2011), at Appendix II, p. 6 (citations omitted).

⁴³ SureWest Comments at 5.

⁴⁴ Tony H. Grubestic, *The U.S. National Broadband Map: Data Limitations and Implications*, Geographic Information Systems and Spatial Analysis Laboratory, College of Information Science and Technology, Drexel Univ. (2011) (quoting Benjamin Lennett and Sascha Menirath, *Map to Nowhere*, Slate (May 2011)).

⁴⁵ SureWest Comments at 5.

⁴⁶ This same reasoning applies to any situation in which the Commission relies on the NBM or Tele Atlas Wire Center Boundaries data to determine the presence of unsubsidized competition for purposes of eliminating or reducing support, including Phase I and Phase II CAF support distributed in price cap areas.

facilities or resells the services of another provider, is not considered an “unsubsidized competitor” under the Commission’s definition; and (ii) affiliates of an ILEC operating in the same study area are not considered “unsubsidized competitors.”⁴⁷ It does not make sense to negate the support of the incumbent when the purported competitor relies on the incumbent’s facilities to provide service as a lessee, reseller, or affiliate. Such providers do not serve as direct or actual competition to the incumbent.

CONCLUSION

For the reasons provided above, ITTA respectfully requests that the Commission adopt its recommendations regarding implementation of the CAF Phase II competitive bidding process as well as the elimination or reduction of support for incumbent carriers based on the presence of unsubsidized competition.

Respectfully submitted,

By: /s/ Genevieve Morelli

Genevieve Morelli
Micah M. Caldwell
ITTA
1101 Vermont Ave., NW, Suite 501
Washington, D.C. 20005
(202) 898-1520
gmorelli@itta.us
mcaldwell@itta.us

February 17, 2012

⁴⁷ See Comments of Chickamauga Telephone Company, Clear Lake Independent Telephone Company, Granite State Telephone, Inc., Hill Country Telephone Cooperative, Inc., Lennon Telephone Company, Ligonier Telephone Company, New Paris Telephone, Inc., Nova Telephone Company, and Valley Telephone Company, LLC, WC Docket Nos. 10-90, *et al.* (filed Jan. 18, 2012), at 4.